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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/081,315	02/21/2002	Eric H. Simonson	1247-1	3847
7590	09/03/2003			
Kenneth F. Florek HEDMAN & COSTIGAN, P.C. 1185 Avenue of the Americas New York, NY 10036-2601			EXAMINER SAVAGE, MATTHEW O	
			ART UNIT 1723	PAPER NUMBER

DATE MAILED: 09/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/081,315	SIMONSON, ERIC H.	
	Examiner	Art Unit	
	Matthew O Savage	1723	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on _____.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-12 is/are pending in the application.
 - 4a) Of the above claim(s) 5-7,9 and 12 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-4,8,10 and 11 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All
 - b) Some *
 - c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 - a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) Interview Summary (PTO-413) Paper No(s) _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

This application discloses seven patentably distinct species that correspond with the drawing Figures as follows:

<u>Species</u>	<u>Figure</u>
1	1
2	2
3	3
4	4
5	5
6	6
7	7.

This application contains claims directed to the following patentably distinct species of the claimed invention:

Claim 4 corresponds to species 1;

Claim 5 corresponds to species 2;

Claims 6 and 7 correspond to species 3-5;

Claim 8 corresponds to species 1-2;

Claim 9 corresponds to species 6 and 7;

Claim 12 corresponds to species 3-7.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 1-3, 10, and 11 are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim

is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

During a telephone conversation with Mr. Kenneth Florek on 7-7-03 a provisional election was made with traverse to prosecute the invention of species 1, claims 1-4, 8, 10, and 11. Affirmation of this election must be made by applicant in replying to this Office action. Claims 5-7, 9, and 12 withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 4 and 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

On line 2 of claim 4, "the filter elements" lacks antecedent basis.

On line 2 of claim 11, "the conduit" lacks antecedent basis.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Schmidt, Jr..

With respect to claim 1, Schmidt, Jr. discloses a fluid treatment housing system (see FIG. 1) including a first housing member 12, a second housing member 26 and a mounting plate 22 that is considered interchangeable since it is removably attached between the housing members, the mounting plate having one or more apertures having mounts (e.g., the upper shoulder defined by the aperture shown in FIG. 2, or element 56 shown in FIG. 6) for releasably mounting the fluid treatment elements 39 thereon.

As to claim 2, Schmidt, Jr. discloses the mounting plate 22 as creating a sealed environment between the interiors of the first and second housing members since it is sealingly disposed therebetween (see FIG. 1).

Concerning claim 3, Schmidt, Jr. discloses the first housing member 12 and the second housing member 26 as including a closure flange 15, 28 and the mounting plate as including a mounting flange (e.g., an outer periphery of plate 22) for engagement between the closure flange and the mounting plate.

Regarding claim 4, Schmidt, Jr. discloses the mounting plate as being substantially flat and the filter elements as being inside-out filters extending downwardly into the first housing member 12.

Concerning claim 8, Schmidt, Jr. discloses the second housing member 26 as not containing any filter elements.

Claims 1-4, 8, 10, and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Harms.

With respect to claim 1, Harms discloses a fluid treatment housing system (see FIG. 1) including a first housing member 22, a second housing member 42 and a mounting plate 62 that is considered interchangeable since it is removably attached between the housing members, the mounting plate having one or more apertures having mounts (e.g., the upper shoulder defined by the aperture shown in FIG. 2, or element 90, 95) for releasably mounting the fluid treatment elements 80 thereon.

As to claim 2, Harms discloses the mounting plate 62 as creating a sealed environment between the interiors of the first and second housing members since it is sealingly disposed therebetween (see FIG. II).

Concerning claim 3, Harms discloses the first housing member 22 and the second housing member 42 as including a closure flange 32, 44 and the mounting plate as including a mounting flange (e.g., defined by an outer periphery of plate with the gasket 70 mounted thereon) for engagement between the closure flange and the mounting plate.

Regarding claim 4, Harms discloses the mounting plate as being substantially flat and, the filter elements being capable of functioning as inside-out filters (see FIG. III) and extending downwardly into the first housing member 22. Alternately, the limitation of filters as being inside-filters relates to intended use and carries no patentable weight since the filter elements have not been positively claimed in combination with the housing.

Concerning claim 8, Harms discloses the second housing member 42 as not containing any filter elements.

As to claim 10, Harms discloses the first housing member 22 as including a pipe 66 capable of functioning as an inlet at the lower portion thereof for directing inflow through the mounting plate to a point above the mounting plate.

Concerning claim 11, Harms discloses a conduit seal retainer 69 as maintaining a seal between the conduit and the mounting plate.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew O Savage whose telephone number is 703-308-3854. The examiner can normally be reached on Monday-Friday, 7:00am-3:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda W. Walker can be reached on 703-308-0457. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

M. Savage
Matthew O Savage
Primary Examiner
Art Unit 1723

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August 27, 2003